

Kenneth S. Marks  
Jonathan J. Ross  
Johnny W. Carter  
Robert S. Safi  
David M. Peterson  
Matthew C. Behncke  
SUSMAN GODFREY LLP  
1000 Louisiana Street, Suite 5100  
Houston, Texas 77002-5096  
Telephone: (713) 651-9366  
Facsimile: (713) 654-6666  
kmarks@susmangodfrey.com  
jross@susmangodfrey.com  
jcarter@susmangodfrey.com  
rsafi@susmangodfrey.com  
dpeterson@susmangodfrey.com  
mbehncke@susmangodfrey.com

*Attorneys for plaintiff Alfred H. Siegel, solely  
in his capacity as Trustee of the Circuit City  
Stores, Inc. Liquidating Trust*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

In re: Cathode Ray Tube (CRT)  
ANTITRUST LITIGATION

Master File No. 3:07-md-05944-SC

MDL No. 1917

This Document Relates To:

*Alfred H. Siegel, as Trustee of the Circuit City  
Stores, Inc. Liquidating Trust v. Hitachi, Ltd.,  
et al., No. 11-cv-05502*

*Alfred H. Siegel, as Trustee of the Circuit City  
Stores, Inc. Liquidating Trust v. Technicolor  
SA, No. 13-cv-05261*

**BRANDI FOSE DECLARATION IN  
SUPPORT OF DIRECT ACTION  
PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT BASED UPON  
PLAINTIFFS' PURPORTED FAILURE  
TO DISTINGUISH BETWEEN  
ACTIONABLE AND NON-ACTIONABLE  
DAMAGES UNDER THE FTAIA**

Judge: Hon. Samuel P. Conti  
Court: Courtroom 1, 17th Floor  
Date: February 6, 2015  
Time: 10:00 a.m.

I, Brandi Fose, hereby declare as follows:

1. I am currently Accounts Receivable and Information Technologies Manager at

The Circuit City Stores, Inc. Liquidating Trust. I make this declaration based on my personal

[NAME] DECL. IN SUPPORT OF DAPS' OPP. TO DEFS'  
MSJ BASED UPON PLAINTIFFS' PURPORTED FAILURE  
TO DISTINGUISH BETWEEN ACTIONABLE AND NON-  
ACTIONABLE DAMAGES UNDER THE FTAIA

Master File No. 3:07-md-05944-SC

1 knowledge.

2 2. Before the Circuit City bankruptcy in January 2009, I served in several roles at  
3 the company starting in 1997, including inventory accounting manager, the fixed assets and  
4 project accounting manager, expense payables supervisor, inventory accounting supervisor, and  
5 internal audit supervisor.

6 3. During the Relevant Period, Circuit City Stores, Inc. ("Circuit City") purchased  
7 CRT Products from its offices in Richmond, Virginia, as reflected in the corporate  
8 representative testimony of Steve Deason at pages 25 to 26 of his deposition, a true and correct  
9 copy of which is attached as Ex. 1.

10 4. During the Relevant Period, Circuit City purchased CRT Products directly from  
11 Defendants, co-conspirators, and their affiliates, all of which were located in the United States,  
12 as reflected in the purchase data Circuit City produced in this litigation.

13 5. This data was discussed at pages 36-40 of my corporate representative  
14 deposition, a true and correct copy of which is attached as Ex. 2. Documents evidencing these  
15 purchases were stored in Circuit City's Onbase system and produced in this case at bates  
16 numbers 1000001 to 10052456, as discussed in my deposition testimony at pages 79 to 80, a  
17 true and correct copy of which is attached as Ex. 3.

18 6. Defendants, co-conspirators, and their affiliates shipped these CRT Products to  
19 Circuit City primarily at its distribution centers in the United States as discussed in my  
20 deposition at pages 44-45, a true and correct copy of which is attached as Ex. 4.

21  
22 I declare under penalty of perjury that the foregoing is true and correct.

23 Executed this 17<sup>th</sup> day of December at Richmond, Virginia.

24  
25 By: 

26 Brandi Fose  
27  
28

3466420v1/012325

[NAME] DECL. IN SUPPORT OF DAPS' OPP. TO DEFS'  
MSJ BASED UPON PLAINTIFFS' PURPORTED FAILURE  
TO DISTINGUISH BETWEEN ACTIONABLE AND NON-  
ACTIONABLE DAMAGES UNDER THE FTAIA

## Exhibit 1

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Case Number 07-5944 (SC)  
MDL No. 1917

- - - - - x

In Re: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

This Document Relates to  
ALL ACTIONS

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VIDEO DEPOSITION OF STEVEN DEASON

Richmond, Virginia

Wednesday, April 23, 2014

SSS 10:58 a.m.

\* \* \* \* \*

1           Q     Do you know which of those two groups           11:19:33  
2     you were just talking about would have           11:19:36  
3     responsibility related to CRT finished products       11:19:38  
4     that were monitors?           11:19:40  
5           A     I am sorry. I left that group out.       11:19:42  
6     That would have been a separate group that we       11:19:45  
7     called the SOHO group and that group was all small    11:19:47  
8     office home office would include everything that       11:19:53  
9     had to do with computers and usually some other       11:19:57  
10    category, but predominantly computers.           11:20:02  
11           Q     Was that SOHO group located in one       11:20:05  
12    location?           11:20:09  
13           A     Yes.           11:20:09  
14           Q     Where was that location?           11:20:10  
15           A     Richmond.       11:20:12  
16           Q     Is that true throughout the relevant     11:20:13  
17    period?           11:20:15  
18           A     Yes.           11:20:15  
19           Q     For the display group that had           11:20:16  
20    responsibilities related to CRT finished products     11:20:20  
21    other than monitors, was that group concentrated       11:20:23  
22    in one location?       11:20:27  
23           A     Yes.           11:20:28  
24           Q     Where was that location?           11:20:29  
25           A     Richmond.       11:20:30

1           Q     Was that true throughout the relevant     11:20:31  
2     period?     11:20:33  
3           A     Yes.     11:20:33  
4           Q     Was there a position at Circuit City     11:20:34  
5     that had responsibility related to the deciding of     11:20:43  
6     which brands of CRT finished products to purchase?     11:20:46  
7           A     The buyer chooses which products to buy.     11:20:50  
8           Q     Were Circuit City's buyers concentrated     11:20:57  
9     in any one location?     11:21:00  
10          A     They were all in the headquarters in     11:21:01  
11     Richmond.     11:21:04  
12          Q     Were there any buyers throughout the     11:21:07  
13     relevant period located at another location other     11:21:09  
14     than Richmond?     11:21:12  
15          A     No.     11:21:13  
16          Q     Was there a position at Circuit City     11:21:16  
17     that had the ultimate authority to approve a     11:21:24  
18     buyer's decision of which vendors to purchase CRT     11:21:26  
19     products from?     11:21:30  
20          A     I'm not sure I understand the question.     11:21:31  
21          Q     Was there anyone supervising the buyers'     11:21:33  
22     decisions of which vendors to purchase CRT     11:21:36  
23     finished products from?     11:21:38  
24          A     The buyers had supervisors, but it was     11:21:40  
25     not common practice for the supervisors to direct     11:21:43

## Exhibit 2

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Case Number 07-5944 (SC)  
MDL No. 1917

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In Re: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

This Document Relates to  
ALL ACTIONS

- - - - - x

VIDEO DEPOSITION OF BRANDY FOSE

Richmond, Virginia

Wednesday, April 23, 2014

9:00 a.m.

\* \* \* \* \*



1 report basically is created within the AS 400. 09:29:34

2 Q So were the periods monthly? 09:29:39

3 A Yes. 09:29:40

4 Q Are the transactions reflected in your 09:29:47

5 sales data then based on a monthly basis? 09:29:50

6 A Yes. 09:29:53

7 Q Is daily transactional data available? 09:29:54

8 A No. 09:29:56

9 (Whereupon, Deposition Exhibit 2833 is marked for 09:30:00

10 Identification.) 09:30:00

11 MS. LIN: You can put that exhibit 09:30:00

12 aside. I will hand you a document that I am 09:30:02

13 marking as Exhibit 2833 and I will represent 09:30:26

14 to everybody to ignore the headers and 09:30:30

15 footers on this document. 09:30:35

16 I represent to you that this is an 09:30:36

17 abbreviated version of the purchasing data 09:30:45

18 for Circuit City in this case. 09:30:47

19 BY MS. LIN: 09:30:51

20 Q Does this print out in a different form 09:30:51

21 look familiar to you? 09:30:53

22 A Yes. 09:30:54

23 Q The products contained in the purchasing 09:30:56

24 data produced by Circuit City in this case, is 09:30:59

25 that limited to CRT finished products? 09:31:01

516-608-2400

1           Q     The "tran type" column, so the next           09:32:17  
2           column over from date processed, can you talk me       09:32:20  
3           through what type of information is contained in       09:32:22  
4           that column?   09:32:25

5           A     Sure, "tran type" stands for transaction       09:32:26  
6           type and there were numerical codes in there.       09:32:29  
7           There were three of them, 6840, 6841, and 6842,       09:32:33  
8           and 6840 was the transaction of the receipt.       09:32:36

9                     6841 and 6842 represented costs or price       09:32:40  
10          or quantity adjustments, so if for some reason the    09:32:45  
11          distribution center scanned a box of an item in as    09:32:50  
12          one, and there were ten in the box, we may have to    09:32:53  
13          do an adjustment to adjust the quantity for ten.       09:32:55

14          Q     If you adjusted the quantity for ten, to       09:32:58  
15          make sure I am understanding right, you would       09:33:01  
16          modify both the transaction type and then the       09:33:02  
17          quantity?   09:33:06

18          A     Well, the transaction type based on the       09:33:06  
19          adjustment would not be a 6840. It would be a 41       09:33:09  
20          or a 42, and I forget which one is quantity           09:33:15  
21          adjustment because the 6840 is systematic based on    09:33:17  
22          receipt.    09:33:20

23          Q     What does the "store cost" field           09:33:25  
24          reflect?   09:33:28

25          A     That is the same as the store cost in       09:33:28

1 the sales data. 09:33:31

2 Q Is there a distinction between the store 09:33:33

3 cost column and then two over the total store 09:33:35

4 cost? 09:33:38

5 A Yes, store cost is the unit store cost 09:33:38

6 and total store cost is the quantity received 09:33:40

7 times store cost. 09:33:44

8 Q And the second to last column which is 09:33:47

9 labeled "RTVIND," what does that mean? 09:33:49

10 A That stands for RTV indicator and if 09:33:52

11 there is an R present, I believe that is an R, it 09:33:57

12 means that there is an attempt to return the 09:34:00

13 product to the vendor, but it was rejected, so we 09:34:03

14 had to bring the product back into inventory. 09:34:06

15 Q If the product was successfully 09:34:09

16 returned, would that be reflected anywhere on this 09:34:12

17 database? 09:34:15

18 A No, because these are just purchases. 09:34:17

19 Q If a product was successfully returned, 09:34:20

20 it would not appear in your purchasing data at 09:34:23

21 all? 09:34:26

22 A Correct. 09:34:26

23 Q If information on this sheet in the 09:34:32

24 total store cost column is in parentheses, do you 09:34:34

25 know what that means? I don't think there are any 09:34:38

1 examples on this sheet. 09:34:43

2 A I prefer to see an example to answer 09:34:46

3 that to be honest. 09:34:48

4 Q Do you know if the data includes 09:34:58

5 procurement transactions from vendors located 09:35:00

6 exclusively within the United States? 09:35:03

7 A Vendors? 09:35:05

8 MR. ROSS: Objection to form. 09:35:06

9 BY MS. LIN: 09:35:06

10 Q Is there a means within the data set to 09:35:09

11 determine the location of the vendor from which 09:35:16

12 Circuit City is purchasing the data reflected in 09:35:19

13 this exhibit? 09:35:22

14 A No. 09:35:22

15 Q Is there another way that you would be 09:35:23

16 able to determine that information? 09:35:25

17 A Are you asking me where like we sent 09:35:28

18 payment to the vendor? Where the vendor corporate 09:35:32

19 headquarters are? I'm not sure I know what you 09:35:36

20 are asking. 09:35:37

21 Q That's okay. If you saw a particular 09:35:38

22 line in this database and wanted to understand 09:35:40

23 where the vendor of that particular order was 09:35:42

24 located, would there be a way for you find that 09:35:45

25 information? 09:35:47

## Exhibit 3

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Case Number 07-5944 (SC)  
MDL No. 1917

- - - - - x

In Re: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

This Document Relates to  
ALL ACTIONS

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VIDEO DEPOSITION OF BRANDY FOSE

Richmond, Virginia

Wednesday, April 23, 2014

9:00 a.m.

\* \* \* \* \*

1 or something like that might be in a promotion for 10:30:58  
2 the first week it came out. 10:31:00

3 I have seen other short promotions 10:31:04  
4 within the chargeback data which I believe you 10:31:07  
5 guys have the chargebacks from the "on base," but 10:31:11  
6 I can't think of any specific. 10:31:14

7 Q Did Circuit City run short period 10:31:18  
8 Christmas related sales? 10:31:21

9 A Probably. 10:31:24

10 MR. ROSS: To the extent that you want 10:31:26  
11 to get into this subject, and specifically 10:31:28  
12 CRT finished products, to the extent that we 10:31:30  
13 can provide answers, that is probably more 10:31:32  
14 for Mr. Deason. 10:31:34

15 BY MS. LIN: 10:31:36

16 Q You mentioned Circuit City's "on base 10:31:36  
17 system," what is that? 10:31:38

18 A That is just a document retention 10:31:39  
19 database which we still have in place today. 10:31:42

20 Q What type of documents would be stored 10:31:47  
21 in the on base system? 10:31:49

22 A It would have all chargebacks. So like 10:31:50  
23 vendor funding documents, where we billed the 10:31:54  
24 vendor for funding that was negotiated that has 10:31:59  
25 the legal like agreements, master agreement, 10:32:04



1 product exhibits, product addenda, deal 10:32:07  
2 information, if we had hard copy invoices, but for 10:32:11  
3 the most part we don't, they would be scanned and 10:32:15  
4 then in that same system. 10:32:18

5 That's all that I am familiar with and 10:32:21  
6 have access to, but I know that folks that were in 10:32:24  
7 HR there would be personnel records in there as 10:32:25  
8 well. 10:32:31

9 Q Do you recall whether Circuit City ever 10:32:31  
10 had programs where customers would receive a 10:32:33  
11 rebate after purchasing a CRT finished product? 10:32:36

12 A Yes. 10:32:39

13 Q How did those rebate programs work? 10:32:40

14 A I'm not familiar with the details of the 10:32:43  
15 programs, they were for the most part closed out 10:32:46  
16 before I really got involved in the receivable 10:32:49  
17 standpoint for vendor funding and I believe we 10:32:53  
18 even had a third party that assisted with the 10:32:57  
19 rebates. 10:33:00

20 Q Do you know who the third-party 10:33:03  
21 assistant was? 10:33:05

22 A I believe it was Perigo, so a 10:33:06  
23 third-party company. I don't remember how to 10:33:08  
24 spell it. 10:33:16

25 Q Do you know if rebate amounts are 10:33:17

## Exhibit 4

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Case Number 07-5944 (SC)  
MDL No. 1917

- - - - - x

In Re: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION

This Document Relates to  
ALL ACTIONS

- - - - - x

VIDEO DEPOSITION OF BRANDY FOSE

Richmond, Virginia

Wednesday, April 23, 2014

9:00 a.m.

\* \* \* \* \*

1 maintained anywhere. 09:40:09

2 Q Do you know when that system was 09:40:12

3 decommissioned? 09:40:14

4 A The purchase order information was 09:40:15

5 decommissioned after liquidation so after January 09:40:19

6 2009 and prior to April 2009. 09:40:24

7 MR. ROSS: For the record, there are 09:40:30

8 some hard copy purchase orders and we 09:40:32

9 produced those. 09:40:34

10 BY MS. LIN: 09:40:45

11 Q Where were the CRT finished products 09:40:45

12 Circuit City purchased shipped to? 09:40:49

13 A From the vendor? 09:40:51

14 MR. GRALEWSKI: Objection, form. 09:40:52

15 THE WITNESS: The product would have 09:40:54

16 been shipped to whichever location is listed 09:40:56

17 in the purchase data and for the most part it 09:40:58

18 would have been distribution centers, Circuit 09:41:01

19 City Distribution Centers. 09:41:03

20 BY MS. LIN: 09:41:04

21 Q When you are referencing the purchasing 09:41:04

22 data you are referencing the third column that 09:41:07

23 says "store name"? 09:41:09

24 A Yes, or the second column that says 09:41:11

25 location, that is the number, and the fourth 09:41:12

1 column is the state. 09:41:15

2 Q Was there any point in time when Circuit 09:41:18

3 City's CRT finished product purchases were shipped 09:41:25

4 to one central location? 09:41:28

5 A Not that I am aware of. 09:41:30

6 Q Do you know where Circuit City's CRT 09:41:33

7 finished product purchases were shipped when 09:41:36

8 Circuit City intended to sell those products 09:41:39

9 through the Internet? 09:41:42

10 A Where they were received by Circuit 09:41:42

11 City? I believe they were still received at a 09:41:46

12 distribution center. It may have been a different 09:41:50

13 one because we did have some specific web, and I 09:41:52

14 don't remember if they were called "crossed 09:41:56

15 stocks" or something like that, but they were 09:41:58

16 segments within distribution centers that 09:42:01

17 sometimes were, I guess, segmented specifically 09:42:04

18 for the web. 09:42:08

19 Q To your knowledge, were CRT finished 09:42:13

20 products purchased by consumers through Circuit 09:42:16

21 City's website ever shipped directly from the 09:42:19

22 vendor to the customer? 09:42:23

23 A It's possible, but I am not sure. 09:42:26

24 Q Is there a way to determine from Circuit 09:42:33

25 City's purchasing data the location from which the 09:42:52